

<input checked="" type="checkbox"/> FILED	<input type="checkbox"/> RECEIVED
<input type="checkbox"/> ENTERED	<input type="checkbox"/> SERVED ON
COUNSEL/PARTIES OF RECORD	
<div style="border: 1px solid black; padding: 5px; margin: 5px auto; width: 150px;"> MAY 17 2013 </div>	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY: _____	DEPUTY _____

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

TAMMY LEE CALICO,

Defendant.

3:11-CR-98-RCJ-VPC

ORDER

DISCUSSION

On August 20, 2012, Defendant Tammy Lee Calico pled guilty to one count of the superseding misdemeanor information for willful injury to property of the United States in violation of 18 U.S.C. § 1361. (Judgment (#40) at 1). The Court sentenced Defendant to six months probation and \$739.63 in restitution. (*Id.* at 2, 4). On August 31, 2012, Defendant filed a Motion for Correction of Sentence Pursuant to Federal Rule of Criminal Procedure 35(a). (Mot. for Correction (#38) at 1). Defendant argued that her sentence should be corrected, based on clear error, to reflect that no restitution was due pursuant to the statutes and Ninth Circuit law. (*Id.* at 2).

Defendant appealed her sentence. (Notice of Appeal (#41)). On March 27, 2013, the Ninth Circuit issued an order granting the "government's unopposed motion for summary reversal of the restitution order." (Ninth Circuit Order (#60) at 1). The Ninth Circuit reversed and remanded the case back to this Court "for the purpose of vacating the restitution order and entering an amended judgment." (*Id.*).

The Court now denies as moot Defendant's Motion for Correction of Sentence (#38)

1 in light of the Ninth Circuit's remand. The Court further vacates the restitution order in the
2 amount of \$739.63 and directs the Clerk of the Court to enter an amended judgment.

3 The Court notes that Defendant paid the restitution amount to the Clerk of the Court.
4 (See Notice of Intent to Offset (#53); Minutes of Proceedings (#54)). The Clerk of the Court
5 shall refund Defendant the full amount that she paid.

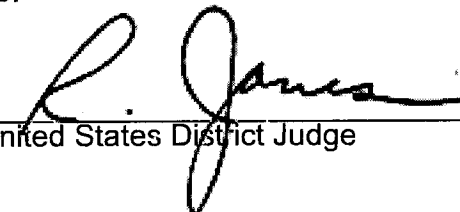
6 **CONCLUSION**

7 For the foregoing reasons, IT IS ORDERED that the Motion for Correction of Sentence
8 (#38) is DENIED as moot.

9 IT IS FURTHER ORDERED that the restitution order in the amount of \$739.63 is
10 VACATED in light of the Ninth Circuit's remand order. The Clerk of the Court shall enter an
11 amended judgment vacating the order for restitution.

12 IT IS FURTHER ORDERED that the Clerk of the Court shall refund Defendant the full
13 amount of restitution that she filed with the Clerk of the Court on January 28, 2013.

14
15 DATED: This 17th day of May, 2013.

16
17 
18 United States District Judge
19
20
21
22
23
24
25
26
27
28